IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3599 OF 2004

M/s. Jai Malhar Dairy
Trough its Proprietor
Shri Hanumant sambhaji Tambe.. Petitioner.

vs.

Union of India & Ors. .. Respondents.

Dr. V.K. Choudhary i/by Mr. Anurag Jain
for petitioner.
Mr. A. H. Palekar, AGP., for State.

CORAM : S.U. KAMDAR, J.
DATE : 23rd November, 2005.

P.C.:

. The present petition is filed challenging the order passed in Appeal No. 2 of 2004 dated 12.4.2004 for Foods and Drugs Administration. The ground on which the licence of the petitioner is cancelled is that on four occasions when inspection is carried out at its premises the milk is found to be adulterated with urea contents. There is no much dispute that such an adulterated milk has been found. However, the contention of the learned

counsel for the petitioner is that urea is the natural component of the milk and therefore the finding that urea is found cannot entitle the respondent to cancel the said licence. The authorities below have held that urea is harmful chemical and finding of the same in milk is likely to affect large amount of people who are likely to consume the said milk. In my opinion, the right of the petitioner to carry out business under Article 19 (1) (g) of the Constitution of India cannot be so absolute so as to permit him to conduct the business in the manner of selling adulterated milk with harmful content like urea. In so far as the case of the analysis is concerned, the authorities below have given a finding that the said procedure prescribed under section 13 of the Prevention of Food Adulteration Act is to be undertaken only after launching the prosecution. The prosecution has been launched by the authorities and thus they will follow the said procedure before continuing with the said prosecution before the concerned Criminal Court. In the present case I do not find any good ground for interference in the order passed by the authority below which is essential in the interest of the public health and thus I am not inclined to exercise my writ jurisdiction under articles 226 and 227 of the Constitution of India. Petition is dismissed. Interim order granted during the pendency of the petition to continue for a period of

two weeks.